

TOWN OF FREDERICK, COLORADO
ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN OF FREDERICK COLORADO,
REGARDING THE 2009 COMPREHENSIVE AMENDMENTS TO THE TOWN
OF FREDERICK MUNICIPAL CODE, 1992.**

WHEREAS, the Board of Trustees of the Town of Frederick finds it necessary to amend the Town of Frederick Municipal Code, 1992, to make the Code consistent with Town practices, to repeal inapplicable and remnant provisions, and to clarify and improve public understanding of Town procedures.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Subsections 1-72 (a) and (e) and Section 1-73 of Chapter 1, Article IV (General Penalties) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

Sec. 1-72. Fines and penalties.

“(a) Any person convicted of a non-criminal violation, as designated in Section 10-7(c) of this Code, may be fined by an amount not to exceed one thousand dollars (\$1,000.00).”

...

“(e) Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.”

“Sec. 1-73. Application of penalties to juveniles. Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code classified as noncriminal pursuant to Section 10-7(c) herein, or classified as criminal pursuant to Section 10-7(d) herein, shall be punished by a fine of not more than one thousand dollars (\$1,000.00). Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.”

Section 2. The following sections of Chapter 2, Article III (Officers and Employees) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

“Sec. 2-51. Salaries generally. The salary of the Mayor and any Trustee of the Town shall not be increased or diminished during the term for which he or she has been elected or

appointed except in the case of abolition of an office, in which case the compensation of the office shall cease at the time of such abolishment. The Mayor, any Trustee and any officer of the Town who has resigned or vacated an office prior to the end of his or her elective or appointive term shall not be eligible to reelection or reappointment to the same during such term if during such term the compensation has been increased. (Prior code 4.3; Ord. 488, § 1, 1997)

“Sec. 2-52. Town Clerk; salary; bond. A Town Clerk shall be appointed within one (1) month after each general municipal election. The Town Clerk shall receive as full compensation for his or her services as such Clerk the sum set by the Town’s administrative salary schedule, payable in equal monthly payments. Before entering upon the duties of the office, a surety bond shall be purchased for the Town Clerk, premium to be paid by the Town through its insurance policy, conditioned upon the faithful discharge of his or her duties as Town Clerk and that, when he or she shall vacate such office, he or she will turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the Town and remaining in his or her hands as Town Clerk. If the same person should serve as both Town Clerk and Town Treasurer, one (1) surety bond may be purchased to cover both positions or offices. (Prior code 4.5)

“Sec. 2-53. Duty to keep records. The Town Clerk shall have the custody of all the laws, ordinances and resolutions of the Town, and shall keep a regular and correct journal of the proceedings of the Board of Trustees. The Town Clerk shall record all ordinances and resolutions passed by the Board of Trustees in books provided for such purpose, and shall publish all ordinances and other matters requiring publication and keep proofs thereof. The Town Clerk shall keep on file all contracts and leases to which the Town is a party, all deeds and other instruments relating to Town-owned real estate, and all reports of officers to the Board of Trustees. The Town Clerk shall keep and maintain all Town records in accordance with the State Model Retention Code. The Town Clerk shall have custody of the seal of the Town and shall affix the same to all instruments as may be required. The Town Clerk shall perform such other duties as may be required by this Code. (Prior code 4.5-1)

“Sec. 2-55. Deputy and Assistant Town Clerks. The Board of Trustees shall appoint a Deputy Town Clerk and as many assistants as are necessary, within the limitations of the Town budget. Before entering upon the duties of their positions, a surety bond shall be purchased for such persons, premium to be paid by the Town through its insurance policy, conditioned upon the faithful performance of their duties and for the proper care and accounting of all monies and property coming into their hands. Such persons shall be under the direct supervision of the Town Clerk and shall hold office at the pleasure of the Board of Trustees. The salaries of such persons shall be fixed by the Board of Trustees. (Prior code 4.5-3)

“Sec. 2-56. Town Treasurer; salary; bond. A Town Treasurer shall be appointed one (1) month after the general municipal election. Before entering upon the duties of his or her office, a surety bond shall be purchased for the Town Treasurer, premium to be paid by the Town through its insurance policy, conditioned upon the faithful discharge of his or her duties as Treasurer, and that when he or she shall vacate such office, he or she will turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the Town and remaining in his or her charge as such Treasurer. (Prior code 4.6)

“Sec. 2-61. Appointive officers; appointments and removal. Each Board of Trustees, upon taking office, within one (1) month after each general municipal election, shall proceed to the election and appointment of the following officers: one (1) Town Attorney; one (1) Clerk; one (1) Treasurer; and one (1) Municipal Judge; and such other officers as may be required by

statute or this Code. On the election of such officers, the Mayor may vote only in the case of a tie. One (1) person may hold two (2) or more offices if compatible with the interest of the Town. Each and every such officer may be removed by a majority vote of the Board of Trustees on charges of incompetence, unfitness, neglect of duty or insubordination, duly made and sustained. (Prior code 4.7; Ord. 359, § 1, 1992)

“Sec. 2-70. Reports to Board of Trustees. The Town Treasurer shall, at least once each month, report in writing to the Board of Trustees all receipts and disbursements of the Town for the preceding month, and they shall annually, within ten (10) days after the close of the fiscal year, report to the Board of Trustees all receipts and disbursements of the Town during the preceding year. Said annual reports shall show the total receipts and disbursements of funds. (Prior code 4.10-6)

“Sec. 2-74. Department created; control of officers. Before entering upon the duties of his or her office, every elected or appointed officer of the Town shall take and subscribe an oath or affirmation that he or she will support the Constitutions of the United States and the State, the laws of the State and the ordinances of the Town; and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Prior code 4.13)”

Section 3. Subsections 2-144 (b)(1) and 2-145 (a) of Chapter 2, Article VI (Municipal Court) of the Frederick Municipal Code 1992 are hereby repealed in their entirety and reenacted to read as follows:

“Sec. 2-144. Municipal Judges.

...

(b) Compensation.

(1) Compensation of the Municipal Judge shall be an annual salary in an amount set by the Town’s administrative salary schedule, and shall be payable as other salaries to Town employees.

“Sec. 2-145. Court Clerk.

(a) The presiding Judge may appoint a person to serve as Court Clerk whose duties shall be those assigned by the Judge. The compensation of the Court Clerk shall be an annual salary in an amount set by the Town’s administrative salary schedule, and shall be payable as other salaries of Town employees.”

Section 4. The following sections of Chapter 2, Article VII (Police Department) of the Frederick Municipal Code 1992 are hereby repealed in their entirety and reenacted to read as follows:

“Sec. 2-181. Department created; control of officers. The Town shall have a paid Police Department consisting of a Chief and such police officers as are deemed necessary. The members shall be hired and removed by the Town Administrator, and subject to the control and orders of the Town Administrator. (Prior code 8.1; Ord. 359, § 2, 1992)

“Sec. 2-182. Chief of Police; duties; bond. The Chief of Police shall be the head of the Police Department and shall, in addition to the duties imposed upon all members of the Police Department, exercise general supervision and control over the work of all members of the Police Department, prescribe the number of hours and the times of day or night when police officers shall be on duty, and report to the Town Administrator any violations of duty on the part of any police officer or any failure to comply with any order of the Chief of Police. The Chief of Police shall attend such meetings of the Board of Trustees as directed by the Town Administrator. (Prior code 8.2)

“Sec. 2-183. Duties of police officers. All members of the Police Department shall have power and duties as follows:

- (1) They shall perform all duties as required by the Chief of Police.
- (2) They shall suppress riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town, and pursue and arrest any person fleeing from justice in any part of the State.
- (3) They shall be the enforcement officers of the Town and shall see that the provisions of this Code and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of this Code or the laws of the State. Upon such arrest, they shall forthwith convey such offenders before the proper officer to be dealt with according to law; provided that they may incarcerate any person whom they shall arrest at a late and unusual hour of the night until the following morning, and further provided that, in the special cases relating to traffic offense set forth in Chapter 8 of this Code, they may release an arrested person upon his or her written promise to appear in court. Further, in cases involving offenses set forth in this Code other than traffic offences, they may issue summons to violators and release them on their promise to appear in court.
- (4) They shall report such offenses as may come to their knowledge to the proper Town official or they shall report the same to the respective Municipal, County, or District Court Judge, securing a warrant for the arrest of offenders when desirable.
- (5) They shall execute and return all writs and process to them directed by a Municipal, County, or District Court Judge, and they may serve the same in any part of the County. (Prior code 8.3)

“Sec. 2-184. Oath and bond. Before entering upon the duties of his or her office, each officer shall take and subscribe the oath or affirmation provided for in Section 2-74 of this Code. (Prior code 8.4)

“Sec. 2-185. Uniforms. Every police officer shall furnish and wear at all times while on duty a uniform of the type and quality prescribed by the Board of Trustees or professionally-maintained business attire. (Prior code 8.5)

“Sec. 2-187. Fees schedule; copies. Fees for duplication and file research services shall be set administratively by the Chief of Police, to be maintained by the Town Clerk and posted on the Town’s on-line resources. (Ord. 645 § 1, 2002)”

Section 5. Section 2-224. of Chapter 2, Article IX (Planning Commission) of the Frederick Municipal Code, 1992 is hereby repealed in its entirety and reenacted to read as follows:

“Sec. 2-224. Comprehensive Plan; Three-mile Plan. The Planning Commission shall be charged with the responsibility of developing a Comprehensive Plan, by making careful and comprehensive surveys and studies of present conditions and future growth of the Town. The Plan shall be made with the general purpose of guiding and accomplishing a coordinated, controlled and harmonious development of the Town. A component of the Plan shall be a Three-mile Plan to be maintained and annually updated by the Planning Commission. (Ord. 243, § 4, 1984; Ord. 829, § 3, 2006)”

Section 6. A new Section 2-226. of Chapter 2, Article IX (Planning Commission) of the Frederick Municipal Code, 1992 is hereby adopted and enacted to read as follows:

“Sec. 2-226. Minutes. The Town Administrator shall designate a staff person to act as secretary to the Planning Commission, who shall be responsible for taking minutes of all meetings, handling Commission correspondence, providing notice of meetings and other general staff support. The minutes shall be prepared pursuant to this Article and maintained in the permanent records of the Town Clerk.”

Section 7. Section 2-247. of Chapter 2, Article X (Park and Open Space Commission) of the Frederick Municipal Code, 1992 is hereby repealed in its entirety and reenacted to read as follows:

“Sec. 2-247. Minutes. The Town Administrator shall designate a staff person to act as secretary to the Commission, who shall be responsible for taking minutes of all meetings, handling Commission correspondence, providing notice of meetings and other general staff support. The minutes shall be maintained in the permanent records of the Town Clerk.”

Section 8. Subsections (a) and (c) of Section 2-266. and Section 2-267. of Chapter 2, Article XI (Arts Commission) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

Sec. 2-266. Meetings.

“(a) The members shall meet as often as necessary to fulfill their duties as defined in Chapter 3 of this Code.”

...

“(c) The Trustee serving as ex officio member of the Arts Commission shall be responsible for keeping the Board of Trustees informed of the Arts Commission's activities. (Ord. 521, § 1, 2000; Ord. 650, § 3, 2002)”

“Sec. 2-267. Officers. The Arts Commission shall elect a chair and vice chair, and adopt rules and procedures as necessary. (Ord. 521, § 1, 2000)”

Section 9. A new Section 2-269. of the Frederick Municipal Code, 1992 is hereby adopted and enacted to read as follows:

“Sec. 2-269. Minutes. The Town Administrator shall designate a staff person to act as secretary to the Arts Commission, who shall be responsible for taking minutes of all meetings, handling Commission correspondence, providing notice of meetings and other general staff support. The minutes shall be prepared pursuant to this Article and maintained in the permanent records of the Town Clerk.”

Section 10. Section 2-305. of Chapter 2, Article XIV (Miner’s Day Celebration Commission) of the Frederick Municipal Code, 1992 is hereby adopted and enacted to read as follows:

“Sec. 2-305. Minutes. The Town Administrator shall designate a staff person to act as secretary to the Miner’s Day Celebration Commission, who shall be responsible for taking minutes of all meetings, handling Commission correspondence, providing notice of meetings and other general staff support. The minutes shall be prepared pursuant to this Article and maintained in the permanent records of the Town Clerk.”

Section 11. The following Sections of Chapter 4, Article II (Financial Management) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

“Sec. 4-11. Budget. The Board of Trustees shall adopt an annual budget for each fiscal year in accordance with the procedure set forth in the Local Government Budget Law of Colorado, C.R.S. § 29-1-101 *et seq.*, as may be amended from time to time. (Prior code 6.2)”

“Sec. 4-15. No contracts unless previously budgeted and appropriated; exceptions. No contract shall be made by the Board of Trustees, and no expense shall be incurred by any officer or department of the Town, whether the object of the expenditure shall have been ordered by the Board of Trustees or not, unless a corresponding budget line item and an appropriation shall have been previously made concerning such expense, except for the following expenditures, and as otherwise provided in this Article:

(a) Payment for budgeted items up to \$5,000, including but not limited to training expenses, petty cash, and professional services rendered, may be administratively approved;

(b) Fee agreements and contracts for professional services up to \$50,000, if budgeted and following legal review, may be administratively approved;

(c) Construction contracts up to \$50,000, if budgeted and following legal review, may be administratively approved;

(d) Construction contract change orders up to lesser of 15 of original contract price or \$15,000, if budgeted and following legal review, may be administratively approved.

(e) The Town of Frederick Purchasing and Bidding Procedures shall be deemed amended to conform to this Section. (Prior code 6.6)”

“**Sec. 4-16.** Deposits; investments. The banks designated as depositories for monies and funds of the Town are those responsible banks located in the State which may hereafter be approved and designated by written resolution duly adopted by a majority vote of the Board of Trustees according to law. The Treasurer shall deposit all Town funds in the name of the Treasurer in one (1) or more of said banks as may from time to time be directed by the Board of Trustees. The Board of Trustees may by written resolution authorize the Treasurer to invest all or any part of such funds and monies in securities which are authorized for such investment by state law. (Prior code 6.7)”

Section 12. Sections 4-71., 4-73., 4-75., and 4-77. of Chapter 4, Article V (Contracts) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

“**Sec. 4-71.** Public improvement by contract. All work done by the Town in the construction of works of public improvement at or above a cost of \$10,000.00 shall be done by contract to the lowest responsible bidder on formal sealed bids after ample advertisement. The Town shall not be required to advertise for and receive bids for such technical, professional or incidental assistance as it may deem wise to employ in guarding the interest of the Town against the neglect of contractors in the performance of such work or as may be prescribed by state or federal security policies. (Prior code 7.1)

“**Sec. 4-73.** Procedure for bidding. Whenever it is required by this Article, law or deemed desirable by the Board of Trustees that any contract of the Town for construction work, services, equipment, supplies or other things, be let upon bids, the procedure for obtaining such bids shall be as set forth below. (Prior code 7.3)

“**Sec. 4-75.** Making of bids. All bids shall be in writing and shall show the residence of the person or the principal place of business of the firm making the bid, together with the amount of the bid, and any other information required by the plans and specifications or the Town of Frederick Purchasing and Bidding Procedures, as may be amended from time to time. Such bids shall be signed by the bidder, sealed in an envelope with the bid number and title clearly stated thereof, and filed with the Town Clerk within the required time. The bid shall also include any bid bond which may be required by the Board of Trustees and stated in the notice to bidders. (Prior code 7.3-2)

“**Sec. 4-77.** Acceptance of bids. Whenever any bid is accepted, the Board of Trustees shall award the contract to the lowest reliable and responsible bidder upon its furnishing the necessary performance bond and complying with the other requirements which have been determined by the Board of Trustees and set forth in the proposal. Upon such acceptance, the bid bonds of other bidders shall be returned. This section shall not prohibit administrative approval of certain contracts, per the purchasing policies adopted by the Town. (Prior code 7.3-4)”

Section 13. Subsection 5-10. (d)(1) of Chapter 5, Article I (Cable Television System) of the Frederick Municipal Code, 1992 is hereby repealed in its entirety and reenacted to read as follows:

Sec. 5-10. General Street Use and Construction.

...

“(d) Relocation, Removal and Discontinuing Use of Facilities.

(1) The Grantor shall have the right to require the Grantee to protect, support, temporarily disconnect, remove or change the location of any of the Grantee's cable system within the streets when any of the following requires such change, and the expense thereof shall be paid by the Grantee: traffic conditions; public safety; street vacation, construction, or change or establishment of street grade, separation or realignment; the installation, construction or repair of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Grantor; or the nonrenewal of this franchise. Such removal, replacement or relocation shall be in a manner as the Grantor may reasonably direct, and the Grantor shall in no event be liable for any damage to any portion of the Grantee's cable system.”

Section 14. Section 5-142. of Chapter 5, Article VI (Franchise Negotiation Costs) of the Frederick Municipal Code, 1992, is hereby repealed in its entirety and reenacted to read as follows:

“Sec. 5-142. Monthly billing of expenses. The Town may bill the franchisee monthly for all expenses incurred related to the negotiation of the franchise. The amount billed to the franchisee may include, but not be limited to, Town staff personnel costs, including overtime, expert consulting fees, publishing fees, legal fees and other related expenses. (Ord. 336, § 2, 1991)”

Section 15. Sections 6-67. and subsection 6-70(a) of Chapter 6, Article III (Liquor Licensing) of the Frederick Municipal Code are hereby repealed in their entirety and re-enacted to read as follows:

“Sec. 6-67. Fee schedule. The fees established by the State Liquor Authority, as amended from time to time, are hereby adopted by the Town and are declared to be the local fees. The state fee schedule is available from the Town Clerk's office. The fees established therein shall be paid to both the local and state licensing authorities prior to the processing or issuance of licenses or permits.”

Sec. 6-70. Penalties.

“(a) Any person violating any provision of Article 46, 47 or 48, Title 12, C.R.S. as amended, or any of the rules and regulations authorized and adopted pursuant to such articles, upon conviction thereof may be punished by a fine of not more than \$1,000 for each offense. In addition, the Court may impose additional sentencing orders as it deems reasonable and necessary, in the sole discretion of the municipal judge.”

Section 16. Section 7-15 of the Frederick Municipal Code, 1992, is hereby renumbered as "Section 10-245." and re-categorized under Chapter 10, Article XII (Miscellaneous Offenses).

Section 17. Sections 7-101, 7-104, 7-105, 7-109, 7-110, 7-111, and 7-120 and subsections 7-103 (a) and 7-113 (a) of Chapter 7, Article V (Animals) of the Frederick Municipal Code, 1992, are hereby repealed in their entirety and reenacted to read as follows:

"Sec. 7-101. Dog license required. The owner, possessor or keeper of any dog within this Town shall purchase a license for such dog from the Police Department on or before March 1 of each year or within thirty (30) days after the dog reaches the age of three (3) months. Dogs purchased, obtained or otherwise acquired, or located in Town subsequent to the first day of March in any calendar year shall be licensed within thirty (30) days after such acquisition or location. (Ord. 303, § 11-701, 1988)"

Sec. 7-103. License application; rabies vaccination.

"(a) Each application for dog license shall be made to the Police Department upon a form provided for that purpose, and it shall be accompanied by a certificate from a duly licensed veterinarian showing that the dog has been vaccinated against rabies consistent with Subsection (b) below."

"Sec. 7-104. License tags. Upon application for a dog license, the furnishing of the required certificate of inoculation and the payment of the required fee, the Police Department shall issue a dog license which shall be numbered and also a metal tag bearing the same number as the license, which tag shall be securely attached to the collar to be worn by the dog so licensed at all times. (Ord. 303, § 11-701, 1988)"

"Sec. 7-105. Lost or destroyed tags. If a dog tag is lost or destroyed, the license holder may obtain a duplicate tag from the Police Department upon paying a fee to be established by the Police Department. (Ord. 303, § 11-701, 1988)"

"Sec. 7-109. Notice of impoundment. As soon as practicable after the date of impoundment, notice of such impoundment shall be personally served upon the owner, possessor or keeper of such dog if the address of such person is known. If the owner, possessor or keeper of such dog is not known, or if his or her address cannot be determined, a designated agent of the Police Department shall cause to be posted at the Town Hall for five (5) consecutive days a notice of impoundment, which notice shall describe the dog, set forth the date of impoundment and set forth the location from which the dog was taken up. (Ord. 303, § 11-701, 1988)"

"Sec. 7-110. Disposition of impounded dogs. If an impounded dog has not been claimed within five (5) days from the first notice of impoundment, the dog may be disposed of in any humane manner prescribed by the Community Service Officer or by persons so authorized to do so by the Board of Trustees."

“Sec. 7-111. Redemption from pound. Any owner, possessor or keeper of a dog desiring to redeem such dog from the pound shall pay to the impoundment facility all costs for impoundment, room and board and other services, and further shall pay the Town all impound, license, rabies inoculation, and applicable fees as set by the Board of Trustees from time to time. (Ord. 303, § 11-701, 1988)”

Sec. 7-113. Dog leash required; exceptions.

“(a) No owner or keeper of any dog shall fail to keep the dog on the premises of the owner or keeper unless the dog is under the control of a competent person, restrained by a substantial chain or leash not exceeding fifteen (15) feet in length and in a manner as to not have access to any passerby. Any owner or keeper with a dog at a designated dog park shall be governed by the provisions at Section 7-114.”

“Sec. 7-120. Prohibited animals. No person shall keep or harbor within the Town limits any animal that may reasonably and generally be categorized as fowl, livestock or wild animal, except as herein provided, and except rodent, cat and birds commonly kept within the home.”

Section 18. Section 8-7. of Chapter 8, Article I (Model Traffic Code) of the Frederick Municipal Code, 1992 is hereby amended with the addition of a subparagraph (6) to read as follows:

Sec. 8-7. Penalties.

“(6) Penalties for handicapped parking violations may be up to five hundred dollars (\$500.00).”

Section 19. Subsection 8-109. (c) of Chapter 8, Article VI (Traffic Infractions) of the Frederick Municipal Code, 1992 is hereby repealed in its entirety and re-enacted to read as follows:

Sec. 8-109. Subpoenas

“(c) If the person to whom a subpoena is directed does not waive personal service, the issuance and service of a subpoena shall be as provided by Rule 217, Municipal Court Rules of Procedure, except as otherwise provided in this Section.”

Section 20. Sections 10-9. and 10-10. of Chapter 10, Article I (), of the Frederick Municipal Code, 1992 are hereby repealed and re-enacted to read as follows:

“Sec. 10-9. Penalties. Penalties shall be as provided at Sections 1-72 and 1-73 herein.”

“Sec. 10-10. Court costs. The Municipal Court may impose any of the following costs against any defendant in the Municipal Court, in addition to any additional costs determined to be necessary and appropriate, in the sole discretion of the Municipal Judge:”

Court costs upon conviction after trial or entry of guilty or no contest plea	\$25.00
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Court surcharge (pursuant to Section 10-12 of this Code)	\$25.00
Stay of execution of fine	\$25.00
Deferred judgment fee	not to exceed \$200.00
Default judgment fee	\$30.00
Outstanding judgment or warrant (OJW)	\$30.00
Jury trial court costs upon conviction	\$45.00 plus actual costs
Interpreter fee	\$25.00/appearance/FTA or actual cost incurred
Community service fee (per court order)	\$30.00
Dog impound fee (pursuant to FMC 7-115)	amount to be determined by Board of Trustees
Contempt citation or show cause citation	\$25.00
Dismissal of compulsory insurance charge where defendant provides proof of insurance	\$20.00
Witness fee (not to include on-duty officer witness)	\$10.00
Warrant fee	\$75.00

Section 21. Sections 10-11. of Chapter 10, Article I (General Provisions), of the Frederick Municipal Code, 1992 is hereby amended with the addition of subsection (5) to read as follows:

Sec. 10-11. Alternatives in sentencing.

“(5) The Court may impose additional sentencing orders as deemed reasonable and necessary, as determined in the sole discretion of the municipal judge.”

Section 22. Sections 10-41., 10-42., and 10-43. of Chapter 10, Article III () of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

“**Sec. 10-41. Menacing.** A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury.”

“**Sec. 10-42. Reckless endangerment.** A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment.”

“**Sec. 10-43. False imprisonment.** Any person who knowingly confines or detains another without the other’s consent and without proper legal authority commits false imprisonment. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties.”

Section 23. Sections 10-65., 10-67., 10-70, and 10-73. of Chapter 10, Article IV (Offenses Against Property) of the Frederick Municipal Code, 1992 are hereby repealed in their entirety and reenacted to read as follows:

“Sec. 10-65. Theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on, or disposes of anything of value of less than five hundred dollars (\$500.00), of another knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value.”

“Sec. 10-67. Second degree criminal trespass. A person commits the crime of second degree trespass if such person:

- (1) Unlawfully enters or remains in or upon the premises of another which are enclosed in a manner designed to exclude intruders or are fenced; or
- (2) Knowingly and unlawfully enters or remains in or upon the common areas of a hotel, motel, condominium, or apartment building; or
- (3) Knowingly and unlawfully enters or remains in a motor vehicle of another.”

“Sec. 10-70. Tampering with a utility meter.

(a) It shall be unlawful for any person to connect any pipe, tube, stopcock, wire, cord, socket, motor, or other instrument or contrivance with any main, service pipe, or other medium conducting or supplying gas, water, or electricity to any building without the knowledge and consent of the person or entity supplying such gas, water or electricity.

(b) It shall be unlawful for any person to in any manner alter, obstruct or interfere with the action of any meter provided for measuring or registering the quantity of gas, water, or electricity passing through said meter without the knowledge and consent of the person or entity owning said meter.

(c) It shall be unlawful to reinstate utility service when such service has been disconnected by the Town of Frederick for nonpayment of services.

(d) Nothing in this section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards.”

“Sec. 10-73. Defacing posted notice. It shall be unlawful to knowingly mar, destroy or remove any posted notice authorized by law.”

Section 24. Section 10-131. of Chapter 10, Article VII (Offenses Relating to Alcohol), of the Frederick Municipal Code is hereby amended with the addition or revision of the following definitions (the remaining definitions in Sec. 10-131 shall remain as published):

“**Sec. 10-131. Definitions.** For purposes of this Code, the following words shall have the meanings set forth below:

“Alcohol beverage” means fermented malt beverage or malt, vinous, or spirituous liquors; except that “alcohol beverage” shall not include confectionery containing alcohol within the limits prescribed by §25-5-410(1)(i)(II), C.R.S., as amended.

“Establishment” means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group, or residence, and any real property, including buildings and improvements, connected therewith, and shall also include any members, employees and occupants associated therewith.

“Ethyl alcohol” means any substance which is or contains ethyl alcohol.

“Possession of ethyl alcohol” means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his immediate presence and control.

“Private property” means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately owned real property which is not open to the public. “Private property” shall not include:

- (1) Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.; or
- (2) Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or
- (3) Any establishment which leases, rents, or provides accommodations to members of the public generally.

“Spirituous liquors” means any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things, brandy, rum, whisky, gin, and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in the definitions of “malt liquors” and “vinous liquors” herein, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

Section 25. Subsections 10-136. (b) and (g) of Chapter 10, Article VII (Offenses Relating to Alcohol) of the Frederick Municipal Code, 1992 are hereby repealed and re-enacted to read as follows:

Sec. 10-136. Underage possession, consumption of alcohol prohibited.

...

“(b) It shall be an affirmative defense to the charge that the ethyl alcohol was possessed or consumed by a person under twenty-one years of age under the following circumstances:

(1) (A) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of his parent or legal guardian who was present the entire time the ethyl alcohol was possessed or consumed by him;

(B) Nothing in subsection (b)(1)(A) shall be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47, or 48 of Title 12, C.R.S., or any members, employees, or occupants of any such establishment to give, provide, make available, or sell ethyl alcohol to a person under twenty-one years of age.

(2) Where the possession or consumption of ethyl alcohol takes place for religious purposes protected by the first amendment to the United States constitution.”

...

“(g) An underage person and one or two other persons shall be immune from criminal prosecution under this section if they establish the following:

(1) One of the underage persons called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) The underage person who called 911 and, if applicable, one or two other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;

(3) The underage person was the first person to make the report; and

(4) The underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.”

Section 26. A new Section 10-172 and a subsection 10-171. (c) of Chapter 10, Article IX (Offenses–Governmental Operations), of the Frederick Municipal Code, 1992 are hereby enacted to read as follows:

Sec. 10-171. Resisting arrest.

...

“(c) The term “peace officer” as used in this section and section 10-172, means a peace officer in uniform or, if out of uniform, one who has identified himself by exhibiting his credentials as such peace officer to the person whose arrest is attempted.”

“Sec. 10-172. Obstructing a peace officer, firefighter, emergency medical services provider, rescue specialist, or volunteer.

(a) (1) It is unlawful for any person, by using or threatening to use violence, force, physical interference, or an obstacle, to knowingly obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his official authority; knowingly obstruct, impair or hinder the prevention, control, or abatement of fire by a firefighter, acting under color of his official authority; knowingly obstruct, impair, or hinder the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of his official authority; or knowingly obstruct, impair or hinder the administration of emergency care or

emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(2) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference, or an obstacle, he knowingly obstructs, impairs or hinders any such animal.

(b) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, if he was acting under color of his official authority as defined in section 10-171(b) of this Code.

(c) For purposes of this section, unless the context otherwise requires:

(1) "Emergency medical service provider" means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.

(2) "Rescue specialist" means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such rescue specialist."

"Sec. 10-180. Impersonating a public servant.

(a) A person commits impersonating a public servant if he or she falsely pretends to be a public servant other than a peace officer and performs any act in pretended capacity.

(b) It is no defense to a prosecution under this section that the office the actor pretended to hold did not in fact exist."

Section 27. Section 10-179. of Chapter 10, Article IX (Offenses-Governmental Operations) of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

"Sec. 10-179. Escape. When held in custody or confinement, it shall be unlawful to knowingly escape from said place of custody or confinement."

Section 28. Subsections 10-191. (a)(6) and 10-193. (a)(4) and Section 10-197. of Chapter 10, Article X (Offenses Against Public Peace, Order and Decency) of the Frederick Municipal Code are hereby repealed and re-enacted to read as follows:

"Sec. 10-191. Disorderly conduct.

"(a)(6) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm."

Sec. 10-193. Harassment.

“(a)(4) Initiates communication with a person, anonymously or otherwise by telephone, computer, computer network, computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system that is obscene; or”

“**Sec. 10-197. Throwing missiles at vehicles.** It shall be unlawful to knowingly project any missile at or against any vehicle or equipment designed for the transportation of persons or property.”

Section 29. Subsection 10-193. (a)(7) of Chapter 10, Article X (Offenses Against Public Peace, Order and Decency) of the Frederick Municipal Code, 1992 is hereby enacted to read as follows:

Sec. 10-193. Harassment.

“(a)(7) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another’s home or private residence or other private property.”

Section 30. The following Sections of the Frederick Municipal Code, 1992, are hereby repealed in their entirety:

- §§ 2-27, 2-31, 2-32, 2-54, 2-56; 2-58 through 2-60; 2-63 through 2-69; 2-71; 2-72; 2-75; 2-91 through 2-96; 2-145(b); 2-186
- §§ 4-12 through 4-14; 4-17; 4-18 (1), (2), and (3); 4-72; 4-100
- §§ 6-69 and 6-71
- §§ 7-1 through 7-14; 7-71 through 7-87
- §§ 8-81 through 8-84; 8-107 (a)
- §§ 10-1, 10-6; 10-64, 10-66 (b); 10-191(a)(6); 10-250(c)

Section 31. Effective date. This ordinance shall be published and become effective as provided by law.

Section 32. Severability. If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 33. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution, or motion thereby.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED
THIS _____ DAY OF _____, 2009.

ATTEST:

TOWN OF FREDERICK

By _____
Nanette S. Fornof, Town Clerk

Eric E. Doering, Mayor